

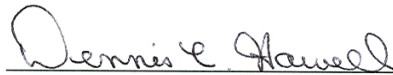
on a question of law and that the defendant would thus not be required to be present, pursuant to Rule 43(b)(3) of the Federal Rules of Criminal Procedure. Further in the motion, defendant's counsel states that he has not been provided an opportunity to review a copy of the report which has been issued in this matter or to discuss its findings with the defendant. In the motion defendant's counsel sets forth the severe medical problems of the defendant which could limit the defendant's physical well being if he is required to appear. Having been advised of this information, the undersigned is of the opinion that it would be in the best interest of justice to conduct a conference with counsel for the defendant and the Assistant United States Attorney on October 9, 2008 to discuss on the record the motion and any problems that would affect the defendant or the U.S. Marshall if the defendants was required to appear. As a result the undersigned has determined to reschedule the hearing to determine the defendant's competency, pursuant to 18 U.S.C. § 4241 so as to provide defendant's counsel shall an opportunity to review the report issued in regard to the defendant and to discuss the report and the proposed absence of the defendant from the hearing which will be conducted in the future, pursuant to 18 U.S.C. § 4241 with the defendant.

ORDER

IT IS, THEREFORE, ORDERED that the motion (#11) of the defendant is

hereby **ALLOWED** and the defendant will not be required to be present at a conference which will take place on October 9, 2008. The hearing which had been scheduled, pursuant to 18 U.S.C. § 4241 to determine the competency of the defendant, will be **CONTINUED** from October 9, 2008 and a further setting of said hearing will be discussed at the conference.

Signed: October 8, 2008

A handwritten signature in cursive script, reading "Dennis L. Howell", written over a horizontal line.

Dennis L. Howell
United States Magistrate Judge

